REASONS AND PROTESTATIONS

Entred in the

House of LORDS,

23. *March*, 1688.

5. *April*, 1689.

20. ----- 1689.

25. *May*, 1689.

Die Sabbati 23 Martii, 1688.

HOdie tertia vice lecta est Billa. *An Act for the Abrogating of the Oaths of Allegiance and Supremacy, and appointing other Oaths.* Before the putting of the Question, a small necessary Clause was added at the Table.

A Member of the House offered a Clause to be added as a Rider to this Bill, which was read as followeth, *viz.*

And to the end that no Person may be induced to take the Sacrament of the Lord's Supper, upon any other Account than in Obedience to the Holy Institution thereof, by our Blessed Lord and Saviour; which nevertheless (with the taking of the Oaths hereby abrogated) is appointed to be received, to enable any Person to bear any Office, or Employment of Trust, by an Act of K. *Charles* the 2d, Intituled, *An Act for preventing Dangers which may happen from Popish Recusants.* It is therefore Provided, and further Enacted by the Authority aforesaid, That it shall and may be lawful for any Person or Persons taking the said Oaths, and making the Declaration by the last recited Act appointed, to be capable of, and to use and exercise any Office, Imployment, or Place of Trust, or receive any Pay, Salary, Fee, or Wages from his Majesty, that within one Year next before,

fore, or within one Year next after his Admiſſion or Entrance thereinto, or of his having ſuch Pay, Sallary, Fee or Wages, hath received, or ſhall receive the Sacrament of the Lord's Supper, according to the uſage of the Church of *England* in any Proteſtant Congregation; altho ſuch Perſon ſhall not receive the ſaid Sacrament, at ſuch Times, and in ſuch Manner as is appointed by the ſaid Act, made in the 25th Year of K. *Charles* the 2d. And ſuch Perſon who hath received, or ſhall receive the ſaid Sacrament, as is hereby mentioned, ſhall not incur any Penalty whatſoever, for not receiving the Lord's Supper according to the ſaid recited Act, made in the 25th Year of K. *Charles* the 2d, any thing contained in the ſaid Act, to the contrary thereof, in any wiſe notwithſtanding, ſo as a Certificate be delivered of the ſaid Perſons having received the Sacrament of the Lord's Supper, under the Hands of the Miniſter and two other credible Perſons, Members of ſuch Proteſtant Congregation, where ſuch Perſon received the ſaid Sacrament; and that Proof ſhall be made of the truth thereof by two credible Witneſſes at the leaſt, upon Oath: Which Certificate ſo proved, ſhall be enquired of, and put upon Record, in his Majeſty's Court of Chancery, or Kings-Bench, or at the Quarter-Seſſions for the County, or Place, where he ſhall reſide.

And the Queſtion being put, *Whether this Rider in Parchment, now brought in, ſhall be made part of this Bill?* It was Reſolv'd in the Negative.

Leave was given to ſuch Lords, as will, to enter their Diſſents; and theſe Lords do enter their Diſſents, in the Reaſons following.

1. Becauſe it gives great part of the Proteſtant Freemen of *England* reaſon to complain of Inequality, and hard Uſage, when they are excluded from publick Employments by Law: And alſo, becauſe it deprives the King and Kingdom of divers Men, fit and capable to ſerve the Publick, in ſeveral Stations; and that for a meer Scruple of Conſcience, which can by no means render them ſuſpected, much leſs diſaffected to the Government.

2. Becauſe His Majeſty, as the common and indulgent Father of his People, having expreſſed an earneſt deſire of Liberty for tender Conſciences to His Proteſtant Subjects; and my Lords the Biſhops, having divers of them, on ſeveral Occaſions, profeſſed an Inclination to, and owned the reaſonableneſs of ſuch a Chriſtian Temper: We apprehend it will raiſe Suſpicion in ſome Mens Minds of ſomething elſe than the care of Religion, or the Publick, and different from a deſign to heal our Breaches, when they find that by confining Secular Employments to Eccleſiaſtical Conformity, thoſe are ſhut out from Civil Affairs, whoſe Doctrine and Worſhip may be tolerated by Authority of Parliament, there being a Bill before us by Order of the Houſe to that purpoſe, eſpecially when without this excluſive Rigour, the Church is ſecured in all her Priviledges, and Preferments, no Body being hereby let into them who is not ſtrictly conformable.

3. Becauſe to ſet Marks of Diſtinction and Humiliation on any ſort of Men, who have not rendred themſelves juſtly ſuſpected to the Government, as it is at all times to be avoided by the makers of juſt and equitable Laws: So may it be particularly of ill effect to the Reformed Intereſt at Home and Abroad in this preſent Conjuncture, which ſtands in need of the united Hands and Hearts of all Proteſtants, againſt the open Attempts, and ſecret Endeavours of a reſtleſs Party, and a Potent Neighbour, who is more zealous than *Rome* it ſelf to plant Popery in theſe Kingdoms, and labours with his utmoſt Force to ſettle his Tyranny upon the Ruins of the Reformation all through *Europe*.

4. Becauſe it turns the edg of a Law (we know not by what Fate) upon *Proteſtants*, and Friends to the Government, which was intended againſt *Papiſts*, to exclude them from Places of Truſt, as Men avowedly dangerous to our Government and Religion.

And

And thus the taking the Sacrament, which was injoined only as a means to diſcover *Papiſts*, is now made a diſtinguiſhing Duty amongſt *Proteſtants*, to weaken the whole by caſting off a part of them.

5. Becauſe Myſteries of Religion, and Divine Worſhip, are of Divine Original, and of a Nature ſo wholly diſtant from the Secular Affairs of Politick Society, that they cannot be applied to thoſe Ends; and therefore the Church, by the Law of the Goſpel, as well as common Prudence, ought to take care neither to offend tender Conſciences within it ſelf, nor give Offence to thoſe without, by mixing their Sacred Miſteries with Secular Intereſts.

6. Becauſe we cannot ſee how it can conſiſt with the Law of God, Common Equity, or the Right of any Free-born Subject, that any one be puniſhed without Crime. If it be a Crime not to take the Sacrament according to the Uſage of the Church of *England*, every one ought to be puniſhed for it, which no Body affirms: If it be no Crime, thoſe who are capable, and judged fit for Imployments by the King, ought not to be puniſhed, with a Law of Excluſion, for not doing that which is no Crime to forbear.

If it be urged ſtill as an effectual Teſt, to diſcover and keep out *Papiſts*; the taking the Sacraments, in theſe *Proteſtant* Congregations, where they are Members, and known, will be at leaſt as effectual to that Purpoſe.

OXFORD. *MORDANT.*

J. LOVELACE. *R. MOUNTAGUE.*

WHARTON. *W. PAGETT.*

Die Veneris 5 Aprilis, 1689.

THE Houſe reſumed the Debate of the Report of the Amendments made by the Committee, in the Bill for Uniting his Majeſties Proteſtant Subjects.

The Clauſe in conſideration, was concerning a Commiſſion to be given out by the King, to the Biſhops, and others of the Clergy; and after ſome Debate it came to this Queſtion, *Whether theſe Words* [*AND LAYMEN*] *ſhall be added?*

The Queſtion being put, the Votes, with the Proxies, were equal; then, according to the Antient Rule in like Caſes, *Semper preſumitur pro Negante.*

Leave was given to any Lords to enter Diſſents: And accordingly theſe Lords following do enter their Diſſents, in the Reaſons enſuing.

1. Becauſe the Act it ſelf being, as the Preamble ſets forth, deſigned for the Peace of the State, the putting the Clergy into Commiſſion, with a total Excluſion of the Laity, lays this Humiliation on the Laity, as if the Clergy of the Church of *England* were alone Friends to the Peace of the State, and the Laity leſs able, or leſs concern'd to provide for it.

2. Becauſe the Matters to be conſidered, being barely of Human Conſtitution, *viz.* The Liturgy, and Ceremonies of the Church of *England*, which had their eſtabliſhment from King, Lords Spiritual and Temporal, and Commons aſſembled in Parliament, there can be no reaſon, why the Commiſſioners for altering any thing in that Civil Conſtitution, ſhould conſiſt only of Men of one ſort of them; unleſs it be ſuppoſed that Human Reaſon is to be quitted in this Affair, and the Inſpiration of Spiritual Men to be alone depended on.

3. Becauſe tho upon Romiſh-Principles the Clergy may hav a Title alone to meddle in matters of Religion, yet with us they cannot, where the Church is acknowledged and defined to conſiſt of Clergy and Laity; and ſo thoſe matters of Religion which fall under Human Determination, being properly the buſineſs of the Church, belong equally to both, for in what is of Divine Inſtitution, neither Clergy nor Laity can make any Alteration at all.

4. Becauſe the pretending that Differences and Delays may ariſe by mixing Lay-men with Eccleſiaſticks, to the fruſtrating the deſign of the Commiſſion, is vain and out of Doors, unleſs thoſe that make uſe of this pretence, ſuppoſe that the Clergy-part of the Church have diſtinct Intereſts or Deſigns from the Lay-part of the ſame Church, and will be a Reaſon, if good, why one or other of them ſhould quit this Houſe for fear of obſtructing the Buſineſs of it.

5. Becauſe the Commiſſion being intended for the Satisfaction of *Diſſenters*, it would be convenient that Lay-men of different Ranks, nay perhaps of different Opinions too, ſhould be mix'd in it, the better to find Expedients for that end, rather than Clergy-men alone of our Church, who are generally obſerv'd to have all very much the ſame way of reaſoning and thinking.

6. Becauſe it is the moſt ready way to facilitate the paſſing the Alterations into a Law, That Lay-Lords and Commoners ſhould be join'd in the Commiſſion, who may be able to ſatisfy both Houſes of the Reaſons upon which they were made, and thereby remove all Fears and Jealouſies ill Men may raiſe up againſt the Clergy, of their indeavouring to keep up, without Grounds, a diſtinct Intereſt from that of the Laity, whom they ſo carefully exclude from being join'd with them in Conſultations of common Concernment, that they will not have thoſe have any part in the Deliberation, who muſt have the greateſt in Determining.

7. Becauſe ſuch a reſtrain'd Commiſſion lies liable to this great Objection, That it might be made uſe of to elude repeated Promiſes, and the preſent general Expectation of Compliance with tender Conſciences, when the providing for it is taken out of the Ordinary Courſe of Parliament, to be put into the Hands of thoſe alone, who were lateſt in admitting any need of it, and who may be thought to be the more unfit to be the ſole Compoſers of our Differences, when they are look'd upon by ſome as Parties.

Laſtly, Becauſe after all, this carries a dangerous Suppoſition along with it, as if the Laity were not a part of the Church, nor had any Power to meddle in matters of Religion, a Suppoſition directly oppoſite to the Conſtitution both of Church and State; which will make all Alterations utterly impoſſible, unleſs the Clergy alone be allowed to have Power to make Laws in matters of Religion, ſince what is eſtabliſhed by Law, cannot be taken away or chang'd but by conſent of Lay-men in Parliament, the Clergy themſelves having no Authority to meddle in this very caſe in which the Laity is excluded by this Vote, but what they derive from Lay-Hands.

WINCHESTER. MORDANT.
LOVELACE.

I Diſſent for this and the other Reaſons.

Becauſe it is contrary to three Statutes made in the Reign of *Henry* the 8th, and one in *Edward* the 6th, which impowers two and thirty Commiſſioners to alter the Cannon and Eccleſiaſtical Laws, *&c.* whereof ſixteen to be of the Laity, and ſixteen of the Clergy.

STAMFORD.

20th *Apr.* 1689.

THE Lord *Godolphin*, Reported the effect of the Conference with the Houſe of Commons, concerning the Amendments ſent down from this Houſe in the Bill, for Abrogating the Oaths of Allegiance and Supremacy, which He ſaid was managed by Sir *Geo. Treby*, who ſaid that the Commons do Agree to their Lordſhips firſt Amendment, but they cannot agree to the reſt of the Amendments.

Becauſe it hath been the Policy of the Common Law, and the Statute-Law, to oblige Men to Swear Allegiance to the King.

Allegiance is the Common and neceſſary Duty of all Subjects, and is moſt ſtrictly to be required of Arch-Biſhops, and Biſhops, and thoſe who have Eccleſiaſtical Dignities, Benefices or Promotions, in regard they are highly intruſted in the Adminiſtration of the Government, draw great Dependences, and are Exemplary to the reſt of the People; And ſeveral of them are by Law to Adminiſter the Oath of Allegiance to other Perſons.

Allegiance is alſo ſtrictly to be required of all Governours, Profeſſours, and Fellows in Univerſities, and School-Maſters, becauſe to them the Education of the Youth of the Kingdom is commited, and therefore they ought to be Perſons of known Loyalty and Affections to the Government.

The taking the Oaths publickly in open Court will better manifeſt Allegiance than the taking them privately, before Perſons appointed by Order in Council, and will be much more ſafe for the Perſons who are obliged to take the Oaths.

The beſt and moſt certain means to have the Oaths taken, is to impoſe it upon the Perſons concern'd, to tender themſelves to take the ſaid Oaths under Penalties: But if the Oaths are not required to be taken, unleſs tendred, the ſaid Perſons might by Abſence and otherwiſe avoid the taking them with Impunity.

The Clauſe which the Commons ſent to your Lordſhips, allows more Favour to the Arch-Biſhops, Biſhops, and thoſe that have Eccleſiaſtical Dignities, or Promotions, than to any Lay-Peers, or any Perſons having Offices or Imployments, and is more gentle in the Penalty than the Statutes heretofore made in the like Caſe.

It is unreaſonable and unſafe to diſtinguiſh the Arch-Biſhops, Biſhops, and Perſons having Eccleſiaſtical Dignities, Benefices, or Promotions, and ſuch as are intruſted with the Education of Youth, from the reſt of the Subjects in the Declaration of their Allegiance: And may tend to make a Diviſion in the Kingdom, and may raiſe and countenance Faction both in Church and State.

It

* It may tend to expoſe the King's Perſon and Government to Hatred and Danger, and occaſion a general Diſcontent.

After this the Houſe was Adjourn'd into a Committee, to debate and conſider of the Reaſons of the Houſe of Commons. The Houſe being Reſumed, The Earl of *Bridgwater* Reported to the Houſe, That after a long debate in the Committee, it came to this Queſtion, *Whether to Agree with the Houſe of Commons?*

It was carried in the Negative.

Then the Queſtion was put, *Whether this Houſe ſhould Agree with the Committee?*

It was Reſolv'd in the Affirmative.

Leave was given to ſuch Lords as would enter their Diſſents: And accordingly theſe Lords following do enter theirs Diſſents, in the ſaid Reaſons enſuing.

The Biſhops, and Clergy, not to be Excuſed from taking the Oaths of Allegiance.

1. Becauſe by the ſame Reaſon that any part of the Subjects may be Excuſed from giving Aſſurance of their Allegiance and Fidelity to the Government, all may; and the Government will be left perfectly precarious.

2. Becauſe the Clergy, and eſpecially the Biſhops, receiving their Benefices, Dignities, and Preferments from the Publick, ought to be firſt and forwardeſt, both by their Doctrine and Example, to teach others their Obligations, to be Zealous in preſerving the Government, as well as the Religion Eſtabliſhed by Law.

3. Becauſe the pretence of Scruple and Tenderneſs of Conſcience can have no other Foundation in the preſent Caſe, but the Suppoſition of ſome former Obligation, no one ever ſcrupling to give all manner of Pledges of his Allegiance, where he thought it due. Thoſe therefore that Scruple ought the more to be preſs'd, and the ſooner brought to the Teſt, unleſs any one can think it reaſonable the Government ſhould Favour, Incourage, and Indulge thoſe who will not give the uſual ſecurity they are not Enemies to it.

4. Becauſe, however the King may, that part of the People, who have Sworn Allegiance to Him, cannot have Reaſon to be Satisfied when they ſee another part of the Nation under looſer Obligations to the Government than they, nothing being ſo apt to raiſe Fears, Jealouſies, and Diſorders in a State, as unneceſſary Diſtinctions, or any Cauſe of Suſpicion of want of Unanimity or Fidelity amongſt themſelves in the great Concernments of the Kingdom, eſpecially in the Titles of Crowns, and at ſuch a time as this, when we are entring into War with a Potent Enemy who openly owns and ſupports a contrary Title.

5. Becauſe it will diſcourage our Allies and give them a lower Opinion of our King's Intereſt in his People, or Authority over them, than is for the Advantage of this Kingdom in particular, or the Proteſtant Religion through *Europe*, when they ſhall underſtand, That thoſe that are look'd on to be the Directors of other Mens Conſciences, cannot bring their own to acknowledge Him in this firſt and Fundamental Act of Obedience; and what muſt they conclude when they hear that the Parliament hath Diſpenſed with ſuch an Exemplary part of the Nation in a Buſineſs of ſuch moment?

6. Becauſe it may be of ill Conſequence if the Parliament ſhould ſet any thing like a mark of Diſaffection to the Government on the *Sacred Order* by allowing them now a Diſpenſation from taking a very Moderate Oath of Allegiance, who in a late Reign were too forward and zealous by Addreſſes, Preaching and promoting New-Oaths to carry Loyalty and Obedience to Monarchy to a Pitch, unknown to our Ancient Laws, or former Ages.

7. Be-

7. Becauſe there being no other aſſurance of any one owning himſelf a Subject to any Government, but either Acting under, or Swearing to it; It is very neceſſary that thoſe who forbear to Act, ſhould of all others be moſt ſtrictly required to take the Oaths, that the Publick might have that Security of their Allegiance from thoſe that refuſe the other.

8. Becauſe 'tis unreaſonable that for a part of the Clergy, the whole Laity and Clergy, ſhould be expoſed to inconvenience of want of Juſtice, and the Dangers of Diſorders for want of Settling the Militia; The renewing of all Commiſſions being delayed to the great Prejudice of the Government, and the People, till this Act be paſt; and therefore we do not ſee why this Houſe ſhould not comply with the Commons in the preſent Neceſſity, tho their Vote ſhould be hard on a Part of the Subjects: Whereas the utmoſt can be pretended in this Caſe, is only contending for an Extraordinary Favour, and an unheard-of Allowance, to ſome Scrupulous Men.

9. Becauſe it is what neither Hiſtory can Parallel, nor any Policy Juſtifie, to allow any part of the People who claim Protection from the Government, to be excuſed from giving the common and neceſſary Aſſurances of Allegiance and Fidelity to it; and it is hard to think how any one that intends to be Faithful to it, ſhould come ſo near Renouncing the Government, as to deſire to be Diſpenſed with from being under the ſame Ties with others their Fellow-Subjects.

MONMOUTH. *MACCLESFIELD.*

On the Vote for Affirming the Judgment againſt *Titus Oates.*

Die Sabati 25 *May*, 1689.

WE diſſent for theſe Reaſons.

1. For that the Kings-Bench being a Temporal Court, made it part of the Judgment, That *Titus Oates*, being a Clerk, ſhould for his ſaid Perjuries be deveſted of his Canonical and Prieſtly Habit, and ſo continue deveſted all his Life; which is a matter wholly out of their Power, belonging to the Eccleſiaſtical Courts only.

2. For that the ſaid Judgments are Barbarouſly Inhumane and Unchriſtian, and there is no Precedent to warrant the Puniſhments of Whipping and Committing to Priſon for Life for the Crime of Perjury, which yet were but one part of the Puniſhments that were inflicted upon him.

3. For that the particular matters upon which theſe Indictments were founded, were the Points objected againſt Mr. *Titus Oates* his Teſtimony, in ſeveral of the Tryals in which he was allowed to be a good and Credible Witneſs, though teſtified againſt him by moſt of the ſame Perſons who witneſſed againſt him upon theſe two Indictments.

4. For that this will be an Incouragment and Allowance for giving the like Barbarous, Illegal, and Cruel Judgments hereafter, unleſs this be Reverſed.

5. Be-

5. Becauſe Sir *John Holt*, Sir *Henry Pollexfen*, the two Cheif-Juſtices, and Sir *Robert Atkins* Chief-Baron, with ſix Judges more, (being all that were then preſent) for theſe and many other Reaſons, did before us ſolemnly deliver their Opinions and unanimouſly declare, That the ſaid Judgments were contrary to Law and ancient Practice, and therefore Erroneous, and ought to be Reverſed.

6. Becauſe it is contrary to the Declaration of the 12th of *February* laſt, which was Ordered by the Lords Spiritual and Temporal, and Commons then Aſſembled, and by their Declaration engroſſed in Parliament, and inrolled among the Records in Parliament, and recorded in Chancery, it does appear that Exceſſive Bayls ought not to be required, nor Exceſſive Fines impoſed, nor cruel and unuſual Puniſhments inflicted.

BOLTON.
MACCLESFIELD.
J. BRIDGWATER.
BOLINGBROOKE.
HERBERT.
VAUGHAN.
STAMFORD.
GREY.
CORNWALLIS.
OXFORD.
BATH.
R. EVRE.
P. WHARTON.

FINIS.

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